

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

CURTIS GIOVANNI FLOWERS

PLAINTIFF

VS.

CIVIL ACTION NO. 4:21-CV-110-NBB-JMV

**DOUG EVANS, in his individual capacity,
JOHN JOHNSON, in his individual capacity,
WAYNE MILLER, in his individual capacity,
and JACK MATTHEWS, in his individual
capacity**

DEFENDANTS

DISTRICT ATTORNEY DOUG EVANS'S MOTION TO DISMISS

COMES NOW Defendant Doug Evans, in his individual capacity, and files this his Motion to Dismiss, pursuant to Fed. R. Civ. P. 12(b)(6), and for cause therefore would show unto the Court the following:

1. Before the Court is a Complaint filed by Plaintiff Curtis Giovanni Flowers (hereinafter “Plaintiff”) against District Attorney Doug Evans and investigators John Johnson, Wayne Miller, and Jack Matthews in their individual capacities (hereinafter “Defendants”), asserting claims under 42 U.S.C. § 1983 and state law arising out of his convictions and sentences for the 1996 murders of four people in Winona, Mississippi.

2. The Plaintiff maintains that the Defendants engaged in investigatory and prosecutorial misconduct which violated his rights under the Fourth, Sixth, and Fourteenth Amendments to the United States Constitution, and Article 3, Sections 14, 23, and 26 of the Mississippi Constitution. The Plaintiff also asserts state law tort claims for malicious prosecution, abuse of process, and false imprisonment.

3. Because the allegations in the Complaint do not demonstrate that District Attorney Evans exceeded his role as prosecutor in this matter, he is entitled to dismissal of all

claims against him based on his prosecutorial immunity from suit under federal and state law. Additionally, the Plaintiff's state law claims are barred by the Mississippi Tort Claims Act, the wrongful conviction statute, the applicable statutes of limitations, and the Plaintiff's failure to sufficiently plead necessary elements of his claims.

4. Therefore, District Attorney Evans respectfully moves this Court for an order of dismissal in his favor on all claims against him in this matter.

5. The grounds in support of this Motion to Dismiss are more fully set forth in the memorandum of authorities in support of the motion submitted herewith and incorporated and referenced as if fully set forth herein.

WHEREFORE, PREMISES CONSIDERED, Defendant Doug Evans respectfully requests that all claims against him be dismissed and that he be dismissed as a defendant in this matter.

THIS the 21st day of October, 2021.

Respectfully submitted,

DOUG EVANS, in his individual capacity,
Defendant

LYNN FITCH,
Attorney General of Mississippi

/s/ Mary Jo Woods
Mary Jo Woods (MSB #10468)
Gerald L. Kucia (MSB #8716)
Special Assistant Attorneys General
Post Office Box 220
Jackson, Mississippi 39205-0220
Telephone: (601) 359-3680
Facsimile: (601) 359-2003
Email: Gerald.Kucia@ago.ms.gov
Mary.Woods@ago.ms.gov

CERTIFICATE OF SERVICE

I, Mary Jo Woods, Special Assistant Attorney General and attorney for Defendant Doug Evans, do hereby certify that I have this date caused to be filed with the Clerk of the Court a true and correct copy of the above and foregoing via the Court's ECF system, which sent notification of such filing to all counsel of record.

THIS the 21st day of October, 2021.

/s/ Mary Jo Woods
Mary Jo Woods